



Annual Business Meeting of the Multistate Tax Commission

August 1, 2012

Grand Rapids, Michigan

I. Roll Call of the States

A roll call of compact states was taken. Alabama, Alaska, Arkansas, D.C., Hawaii Idaho, Kansas Michigan, Missouri, Montana, New Mexico, North Dakota, Oregon, Texas, Utah, and Washington were present. Colorado, Minnesota and South Dakota were absent.

The following individuals attended the meeting either in person or *via telephone*:

| Name | Affiliation | Name | Affiliation |
|----------------------|----------------|------------------------------------|-------------------|
| Michael Mason | Alabama | Rebecca Abbo | New Mexico |
| Chris Sherlock | | Demesia Padilla | |
| R. Scott Taylor | Alaska | Lennie Collins | North Carolina |
| Robynn Wilson | | Gary Humphrey | Oregon |
| Walter Anger | Arkansas | Andy Gerlach | South Dakota |
| Tom Atchley | Arkansas | Christina Heath | Texas |
| Ben Miller | California FTB | Rusty Johnson | |
| Steve Cordi | D.C. | Hermi Nanez | |
| Marshall Stranburg | Florida | Nancy Prosser | |
| Pete Donnelly | Georgia | Bruce Johnson | Utah |
| Ed Beal | Hawaii | Russ Brubaker | Washington |
| Kevin Wakayama | | Private Sector | |
| Richard Cram | Kansas | John Allen | Jones Day |
| <i>Rob Carter</i> | Kentucky | Deborah Bierbaum | AT&T |
| Jennifer Hays | | <i>Mitchell Bryk</i> | Starwood Hotels |
| J.A. Cline | Louisiana | Dan DeJong | TEI |
| Michael Eschelbach | Michigan | Terry Frederick | Sprint |
| Glenn White | | Amy Hamilton | Tax Analysts |
| Keith Getschel | Minnesota | Todd Lard | COST |
| Alana Barragán-Scott | Missouri | Nora Macaluso | BNA |
| Wood Miller | | Todd Lard | COST |
| Dan Bucks | Montana | Diann Smith | Sutherland |
| Lee Baerlocher | | Jamie Fenwick | Time Warner Cable |
| Gene Walborn | | MTC Staff & Consultants | |
| Cory Fong (Chair) | North Dakota | Ken Beier | Greg Matson |
| Emily Thompson | | Roxanne Bland | Tom Shimkin |

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|---------------------|-------------------------|-----------------|------------------------------|
| Donnita Wald | North Dakota (cont.) | Elliott Dubin | Shirley Sicilian |
| Matt Peyerl | | Joe Huddleston | William Six |
| Ryan Rauschenberger | | Harold Jennings | <i>Lenn Lucchi, Patuxent</i> |
| Myles Vosberg | | Les Koenig | Jim Rosapepe, Patuxent |

The chair opened the meeting at 2:00 p.m. and, following a roll call of the states, determined there was a quorum. Those in the room and on the phone were then asked to introduce themselves.

II. Public Comment Period

There were no public comments during this portion of the meeting.

III. Approval of Minutes of the Annual Business Meeting held July 28, 2010

Ms. Barragán-Scott (Missouri) moved acceptance of the minutes. This was approved by a unanimous voice vote.

IV. Report of the Treasurer

Mr. Huddleston provided the report and commented on the phase in of audit fees for new states in that program, new staff members, the budget surplus, and an anticipated increase of ten percent for health care insurance expense. He added that expenses are being watched very carefully. In response to a question from Mr. Mason (Alabama) regarding the decrease in health care insurance expenses during the past year, Mr. Huddleston responded that the Commission had changed insurance coverage and that a repeat of these savings was not expected.

Mr. Bucks (Montana) expressed his confidence in the audit program, noting that he had been able to attend the meeting of the Audit Committee on the previous day. He asked if the new audit position was for the sales tax or income tax audit staff. Mr. Huddleston responded that looking at the current audit nominations and staffing that hiring of a sales tax auditor is expected; however, that could change with changes in the audit work load and staffing. Mr. Koenig added that the Commission now has three more income than sales tax auditors and he shared Mr. Huddleston's expectations regarding a new auditor.

Mr. Bucks moved approval of the budget. This was approved by a unanimous voice vote.

V. Report of the Executive Director

Mr. Huddleston referred to his written report and commented on our excellent experience with interns and a change in banking relationships which was done to achieve some operational savings. He also noted that Amber Kirby was an excellent addition to the National Nexus Program staff, and also highlighted the technology improvements. He also noted the recently-distributed directory of state tax personnel. He added that in the future, the Commission would be implementing a system that will allow states to make their own updates to this information.

VI. Report of the Executive Committee & Other Committees or Programs

A. Committee & Program Reports

The Executive Committee report was presented by Mr. Matson, who had nothing to add to the written report. The Audit Committee report was presented by Mr. Koenig. He noted that the committee recognized Janielle Lipscomb's five years as chair, and that it would soon have a new chair and vice chair in place.

The Litigation Committee report was presented by Mr. Stranburg (Florida), who noted that the Paull Mines Award winners were Ted Spangler for 2011 and Michael Fatale for 2012. Mr. B. Miller (California) added his recognition for support from the Commission, and Ms. Sicilian, in particular, in the *Gillette* brief. Ms. Sicilian, in turn, recognized Mr. Laskin as the primary author of the *Gillette* brief. Mr. Huddleston recognized Mr. Stranburg for his ongoing support of the Litigation Committee, in addition to responsibilities as interim director of the Florida Department of Revenue.

Mr. Shimkin presented the report for the Nexus Committee, noting that the program has received \$12.5 of revenue for member and non-member states during the past year with a small decrease in staff resources. He added that the long term upward trend in number of cases and revenue collected continues.

Mr. W. Miller (Missouri) presented the report for the Uniformity Committee, and recognized the contribution of the subcommittee chairs—Mr. Cram (Kansas; Sales and Use Tax Subcommittee) and Ms. Wilson (Alaska; Income and Franchise Tax Subcommittee). He added that model statutes would be considered by the Commission later in the meeting and Article IV amendments and Sales and Use tax reporting models are under development. He also commented on the discussion of the uniformity process in the committee meetings, which was prompted by the current strategic planning effort. In response to a question from the Chair, he indicated that a record of this discussion would be included in the Uniformity Committee minutes.

Mr. Beier presented the Training Program report, including the recent online seminar on pass through entities. Mr. Johnson (Utah) commented on the merits of self-study programs versus live, online events, which can have some quality problems. Mr. Humphrey (Oregon) commented positively on the quality of the pass through event

The Chair then thanked all of the committee and subcommittee chairs for their excellent work.

B. Commission Action on Executive & Standing Committee Reports

Mr. Johnson (Utah) moved ratification of all actions of the Executive Committee during the past fiscal year. This was approved by a unanimous voice vote.

VII. Unfinished Business

There was no unfinished business to consider at the meeting.

VIII. New Business

A. Uniformity Proposals before the Commission

1. Proposed Model Statute for Communications Transaction Tax Centralized Administration

Ms. Sicilian explained that the three models in the proposal accommodate most, but not all, taxing and administration arrangements in the states; and Ms. Bland noted the input received from AT&T and Time Warner Cable in development of the proposal. Following positive comments from representatives of AT&T and Time Warner Cable on the committee's work on this proposal, Mr. Mason (Alabama) moved adoption of the model statute. This was approved with the following roll call vote.

| Yes | No | Abstain | Absent |
|--|----|------------|------------|
| AL, AK, AR, DC, KS, MI, MO, MT, ND, SD, TX, UT | | HI, OR, WA | CO, ID, MN |

The states voting for the motion represented 71.63% of the population of those states eligible to vote.

2. Proposed Model Statutes for the Collection and Remittance of Lodging Taxes by Accommodations Intermediaries

Ms. Sicilian explained that the model, which had been under development since 2004, includes two collection and remittance options for the lodging tax on the room charge and the accommodations fee. She added that the model works for states that take the position that tax is due on the "margin" or accommodations fee. She also commended Ms. Bland for her outstanding work on this project.

Ms. Prosser (Texas) cited the help of Mr. Bryk, other hotel industry representatives, Mr. Allen, and Mr. Cram, Chair of the Uniformity Sales and Use Tax Subcommittee, in developing the proposal. Mr. Cram (Kansas) commented that the group started with a gross receipts tax approach, but then went with the dual remittance model. After the proposal came back from the Executive Committee, additional feedback was obtained from the hotel industry. He concluded by saying that this is the best effort of the committee after eight years of work and that it is important to have a model available for use by the states.

The Chair cited the letter from Expedia expressing concerns about the proposal. Mr. Allen expressed concerns about the single remittance model, adding that there are additional models that he would like to have considered by the Commission. Following comments from Mr. Brubaker (Washington) and Mr. Wakayama (Hawaii), Mr. Johnson (Utah) suggested that while the model is for lodging taxes, it would also work for general sales taxes. Ms. Sicilian responded that she thought it could be applied to sales taxes, but that the drafters of the proposal did not want to include that, since this is mainly the business of the streamlined sales tax organization. Ms. Prosser (Texas) added that her understanding is that the model would also work for general sales taxes. In concluding, Mr. Johnson (Utah) said he liked the approach of providing the two policy options for legislators. Mr. Bryk thanked the drafting committee for its work and stated that most of the hotel industry supports the dual remittance model.

Ms. Prosser (Texas) described the proposal as a workable model that should be considered in state legislation and moved adoption of the model statute.

Mr. Bucks (Montana) stated that Montana's vote is based on its understanding that the proposal is simply a uniform collection and remittance model statute. Montana law requires that accommodations intermediaries (online travel companies) remit and collect Montana's lodging facility sales and use taxes on the total retail price charged to the purchaser which includes the room charge for the use of the facility and the fee charge by the accommodations provider as defined in Montana law.

The motion was approved with the following roll call vote:

| Yes | No | Abstain | Absent |
|---|----|---------|------------|
| AK, AR, DC, KS, MI, MO, MT, ND, OR, SD, TX, UT, WA | HI | AL, NM | CO, ID, MN |

The states voting for the motion represented 76.12% of the population of those states eligible to vote.

There was no other new business.

X. Resolutions

Mr. Cordi (D.C.) moved for approval of Resolution 01-2012, *Resolution in Support of and Appreciation of the Uniformity and Interstate Cooperation Projects of the Federation of Tax Administrators*. This was passed by a unanimous voice vote.

The 2012 Statement of application to the Congress concerning legislative activity was submitted by Joe Huddleston to the Commission

Approval of the following honorary resolutions was moved by Mr. Cordi (D.C.) and approved by a unanimous voice vote:

- Resolution No. 2012A: *Appreciation of the Michigan Department of Treasury, host of the 2012 Annual Meeting.*
- Resolution No. 2012B: *In Recognition of Janielle Lipscomb, Audit Committee Chair, and Rick DeBano, Audit Committee Vice-Chair.*
- Resolution No. 2012C: *In Recognition of Marshall Stranburg, Litigation Committee Chair, Mark Wainwright and Clark Snelson, Litigation Committee Co-Vice Chairs.*
- Resolution No. 2012D: *In Recognition of Lennie Collins, Nexus Committee Chair.*
- Resolution No. 2012E: *In Recognition of Wood Miller, Uniformity Committee Chair, Robynn Wilson, Income and Franchise Tax Subcommittee Chair, and Richard Cram, Sales and Use Tax Subcommittee Chair.*

The Chair also noted the presentation of the Wade Anderson award to Mr. Mason and the Paull Mines Award to Mr. Fatale earlier in the day. Mr. Bucks (Montana) also acknowledged the many contributions made to the Commission by Brenda Gilmer, who recently retired from the Montana Department of Revenue

IX. Report of the Nominating Committee

Mr. Cordi (D.C.) presented the recommended slate of nominees to fill officer and at-large positions on the Executive Committee for 2012-2013:

ChairCory Fong, Tax Commissioner, North Dakota
Vice ChairAlana M. Barragán-Scott, Director, Missouri Department of Revenue
TreasurerJulie P. Magee, Revenue Commissioner, Alabama
At-Large.....Susan Combs, Texas Comptroller of Public Accounts
 Andy Dillon, State Treasurer, Michigan
 Myron Frans, Commissioner of Revenue, Minnesota
 Demesia Padilla, Secretary of Taxation and Revenue, New Mexico

X. Election of Officers and Executive Committee

The Chair asked for a vote on the slate of candidates which was approved by a unanimous voice vote.

XI. Report of the Chair

The Chair thanked the Strategic Planning Steering Committee members and staff who have supported this effort, and to the Commission Committees for their significant work over the past year. He also recognized the recipient of the awards and thanked Michigan for its hospitality during the meetings.

Mr. Johnson (Utah) noted that the current officers had been re-elected and thanked them for their great leadership over the past year.

XII. Comments by Chair-Elect

There were no additional comments from the Chair, as Chair-Elect.

XIII. Adjournment

The Chair adjourned the meeting at 4:00 p.m.